

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In re:

Dotson Plumbing &
Heating, Inc.

Debtor.

Case No. 15-33017

Chapter 11

Judge John P. Gustafson

**THE OHIO DEPARTMENT OF TAXATION'S
MOTION TO DISMISS OR CONVERT**

The Ohio Department of Taxation moves this Court for an Order under 11 U.S.C. § 1112(b) dismissing this chapter 11 case or, in the alternative, converting it to a case under chapter 7 of the bankruptcy code. Dotson Plumbing & Heating, Inc. has failed to file and pay numerous State of Ohio taxes since the filing of this case. Thus, under 11 U.S.C. § 1112(b)(1)(I), sufficient cause exists to dismiss or convert this case.

Special Counsel for
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MEMORANDUM IN SUPPORT

Dotson filed its chapter 11 bankruptcy case in September 2015. Although required, Dotson has failed to file various post-petition tax returns with the State of Ohio. As set forth below, Dotson has failed to file returns for Commercial Activity Tax, Withholding Tax, School District Withholding Tax, Sales Tax, and Use Tax. The missing periods at issue are:¹

Type of Tax	Tax Periods at Issue
Withholding Tax	No returns since 3/2016 to present Missing IT-941 for 2016, and 2017
School District Withholding Tax	No various from since 3/2016 to present Missing SD-141 for 2016, and 2017
Sales Tax	Unpaid 7/2016 Missing 5/2017
Use Tax	Unpaid 11/2015-12/2016 Missing all returns 1/2017 through 5/2017

Those tax periods are all considered administrative claims under 11 U.S.C. § 503. Thus, in accordance with section 3.1 of the confirmed plan, Dotson is required to pay these claims within 30 days. Yet it has failed to do so.

The Bankruptcy Code states a chapter 11 case may be dismissed or converted for “cause.”² While the code does not define cause, it does state that cause includes “failure timely to pay taxes owed after the date of the order for relief or to file tax returns due

¹ Debtor’s counsel was informed of numerous missing returns. In response, the debtor has recently filed various returns. However, many returns remain unfiled and various balances are due.

² 11 U.S.C. § 1112(b).

after the date of the order for relief.”³ Here, it’s clear Dotson has failed to timely file and pay numerous tax returns with the State of Ohio. Thus, causes exist to dismiss or convert this case.

As such, the State of Ohio moves this Court for an order dismissing or converting this case due to the debtor’s failure to abide by 11 U.S.C. § 1112.

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³ 11 U.S.C. § 1112(b)(4)(I).
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CERTIFICATE OF SERVICE

I certify that on July 7, 2017 a true and correct copy of the forgoing was served:

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

Steven L. Diller, on behalf of Dotson Plumbing & Heating, Inc., debtor, at
steven@drlawllc.com

Michael A. Staudt, on behalf of Citizens National Bank of Bluffton, creditor, at
mstaudt@fgks-law.com

Matthew T. Hurm, on behalf of Trustees of the Plumbers and Pipe Fitters
National Pension Fund, creditor, at hurm@fhplaw.com

Joseph D. Mando, on behalf of Trustees of the Plumbers and Pipe Fitters National
Pension Fund, creditor, at mando@fhplaw.com

Linda Maria Battisti, on behalf of the United States Trustee's office, at
Linda.Battisti@usdoj.gov

Raymond L. Beebe, on behalf of Ohio Department of Job and Family Services, at
rlbagct@bex.net

And by regular U.S. mail, postage prepaid, on:

Robertson Heating Supply Co., creditor, at PO Box 2448, Alliance, OH 44601

Dotson Plumbing & Heating, Inc., debtor, at 100 West Main Street, Cridersville,
OH 45806

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